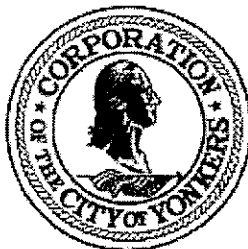


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**DEPARTMENT OF
INSPECTOR GENERAL
CITY OF YONKERS**

TO: Mike Spano, Mayor

CC: Chuck Lesnick, City Council President
All City Council Members
Bernard A. Pierorazio, Superintendent of Schools
Pat Puleo, Yonkers Federation of Teachers Welfare Fund Chair

FROM: Dan Schorr, Inspector General *DS*

SUBJECT: Yonkers Federation of Teachers Welfare Fund

DATE: March 6, 2012

This report is issued in response to inquiries from various City officials and members of the public regarding the utilization of taxpayer funds by the Yonkers Public Schools and the Yonkers Federation of Teachers (YFT) Welfare Fund.

Summary of Findings and Recommendations

The YFT Welfare Fund appears to administer its prescription drug and optical benefits within Welfare Fund guidelines, and a third-party provider effectively processes almost 16,000 annual dental payments. Meanwhile, despite the current School District budget crisis that has resulted in programs being cut and teachers losing their jobs, the Welfare Fund maintains over \$3 million in investments and has a monthly "rent and occupancy" expense of approximately \$6,000, despite only employing three people. These funds and/or future contractual Board of Education (BOE) payments to the Welfare Fund could be utilized to restore teachers and programs in the School District. Additionally, the Welfare Fund should consider outsourcing its in-house benefits administration to reduce its high administrative expenses. Furthermore, the Welfare Fund should cooperate with future requests for information from the IG, without the need for a subpoena, litigation, and court orders, so that there is greater transparency regarding the use of taxpayer funds.

Background

The Welfare Fund processes payments to vendors and reimbursements to employees for dental, prescription drug, optical, legal, and other benefits to BOE employees and retirees. The City, via the School District, contractually remits annual payments totaling millions of taxpayer dollars to the Welfare Fund without receiving information as to how the money is utilized. Meanwhile, our education system has been experiencing a financial crisis, with many teachers losing their jobs and important programs cut, to the detriment of Yonkers school children. It is more important than ever that taxpayers know how their education dollars are being spent.

The objectives of the review were to:

1. Obtain accurate records for the contractually required annual payments by the BOE to the Welfare Fund
2. Examine certified financial statements to understand how the funds are being utilized and to ascertain the financial strength of the Welfare Fund
3. Analyze check registers for the major benefits administered by the Welfare Fund and its third party provider that administers the dental program
4. Request explanations of selected payment records that were made to individuals and vendors from the Welfare Fund and third party provider

In the course of our review, we looked at records of payments from the BOE to the Welfare Fund, check registers, certified financial reports, and other documents. We prepared Excel schedules to analyze Welfare Fund expenditures and other financial data. Additionally, our office interviewed School District officials including Superintendent Bernard Pierorazio, Welfare Fund officials, and other individuals.

Discussion

Legal Roadblocks

This review was significantly delayed because of obstruction by the BOE and the Welfare Fund. On May 12, 2009, then-IG Philip Zisman met with School District officials and discussed, among other issues, that the IG would be conducting a review of the School District's health and welfare fund payments. The School District subsequently refused to cooperate with requests for relevant information, and IG Zisman issued a subpoena on June 26 that called for the production of "the three bills and payments for the YFT Health and Welfare Fund along with supporting documentation for the year 2009" and other information.

The School District refused to comply with the subpoena. Instead, the BOE adopted a resolution on July 15 that withdrew the IG's status "as Inspector General of the Yonkers Public Schools." This resolution has not been rescinded. On September 29, the BOE sued the IG to prevent it from enforcing the subpoena, arguing that the IG did not have legal authority to review School District administrative operations.

On February 16, 2010, Dan Schorr was sworn in as the new IG and continued the IG's defense against the BOE lawsuit. On July 1, 2010, Judge William J. Giacomo of the New York State Supreme Court Justice ruled in favor of the IG, stating that "local law as well as state law provide defendant with the power and authority to investigate and/or audit the plaintiff with respect to matters not strictly educational or pedagogic." Following the decision, the School District provided documentation showing payments in excess of \$4 million to the Welfare Fund in fiscal year 2009-10.

The IG then contacted the Welfare Fund to obtain information regarding how these funds from the School District were spent. After meeting with Welfare Fund officials, on October 7 the IG requested 2009 certified financial statements and check registers for the dental, prescription drug, optical, and legal benefits. The Welfare Fund failed to provide these documents, and on October 25 the IG issued a subpoena for their production by November 8.

Welfare Fund Chair Pat Puleo responded publicly on October 28 to News 12 that "had [the IG] just come through normal circles, normal processes, he probably would have gotten the paperwork faster than how he's asking for it....I'm going to do whatever's necessary because the books are open, there's not an issue." Nevertheless, the Welfare Fund did not provide any of the subpoenaed information by the subpoena deadline. On that date, News 12 reported that Ms. Puleo stated that "the information the IG needs is already at the Board of Education and he can get access to it if he wants." School District officials responded to IG inquiries by saying that they did not have any of the subpoenaed documents.

Following the failure to comply with the IG subpoena, the City Council unanimously adopted a resolution calling upon the Welfare Fund to "immediately cease its resistance to the Inspector General's inquiry and to immediately comply fully and completely with the Inspector General's review of the finances of the Yonkers Board of Education including but not limited to monies paid by the City and the Board to the Fund."

On December 2, the Welfare Fund still had not produced any of the subpoenaed documents, and the IG went to the New York State Supreme Court to ask for enforcement of the subpoena. The Welfare Fund opposed the IG in court, citing in its papers "the grounds that the subpoena has no basis in law and/or fact, calls for documents which are irrelevant to any proper inquiry and the subpoena is overly broad, sweeping and vague, and requests privileged information."

On July 8, 2011, Judge Giacomo ruled for the IG, stating that "the Office of the Inspector General possesses the authority to audit organizations which receive substantial funds from the City of Yonkers. Therefore, the Fund is directed to comply with the October 25, 2010 subpoena." Nevertheless, for over two weeks after Judge Giacomo's order, the Welfare Fund did not turn over the subpoenaed check registers. On July 26, Judge Giacomo issued a further order, giving the Welfare Fund until noon on July 29 to comply. The Welfare Fund then finally provided the IG with the subpoenaed information that is the subject of this review.

Since that date, the IG has made additional requests for documents and information, which the Welfare Fund has provided, although not in an expeditious manner. The most recent request occurred in February 2012.

Overview of Yonkers Federation of Teachers Welfare Fund

Although the Welfare Fund is legally separate from the YFT union, it is chaired by the YFT President, Pat Puleo, and both entities share office space. However, several of the Welfare Fund trustees are not affiliated with the YFT union.

The most recent contract between the BOE and the YFT provides for the BOE to contribute a fixed amount to the Welfare Fund for each teacher and administrator employed in the School District. This contribution was set in the contract at \$1806 per covered employee for the 2008-09 school year, \$1860 for 2009-10, and \$1916 for 2010-2011. The contract has now expired and the \$1916 per covered employee annual payment remains in effect until a new agreement is reached.

In the 2009-10 school year, the BOE paid a total of \$4,058,985 in taxpayer dollars to the Welfare Fund. The BOE made payments of \$1,012,305 in November, \$2,025,540 in March, and \$1,018,350 in April, plus an adjustment payment of \$2,790 in June. In addition, retirees may contribute to the Welfare Fund in order to participate in the benefits it offers. According to the Welfare Fund's calendar year 2009 certified financial records, such "other contributions" are listed at \$1,103,018 for the year.

The Welfare Fund disburses funds to pay for administrative expenses, in addition to paying expenses for dental, prescription drug, optical, legal, and other benefits. Key facts obtained during our review of these areas follow below. It is important to note that the Welfare Fund does not cover any medical benefits, as all employees are covered by the New York State Health Insurance Empire Plan or one of the HMOs that are offered.

As teachers are being laid off and programs are being cut, the Welfare Fund has a large surplus of money that is not being utilized. According to its financial records, the Welfare Fund had investments of \$2,385,199 in calendar year 2008 which grew to \$3,371,011 at the end of calendar year 2010. In addition, over calendar years 2007-2010, the Welfare Fund earned \$498,426 in net investment income from interest, dividends, and net appreciation of its investments. These funds could be utilized to restore programs and teachers to the School District.

Administrative Expenses

Article II of the Agreement and Declaration of Trust for the Welfare Fund authorizes "the payments of such expenses as are necessary and required in the administration of the Fund." In calendar year 2010, the Welfare Fund spent \$536,919 in administrative costs, which was over 10% of the Welfare Fund's total annual expenses of \$4,894,562. This figure includes \$278,583 in "payroll and related expenses" for three full-time employees.

The Welfare Fund has an operating lease for its office suites at 35 East Grassy Sprain Road in Yonkers which expires on April 30, 2015. One-half of the space is sublet to the YFT union and a portion of the Welfare Fund's office is sublet to the provider of the legal services benefit. In 2010, the total cost of the lease was \$121,679, with the Welfare Fund reporting "rent and occupancy" expenses of \$71,389 for its share of the lease. Thus, the Welfare Fund paid approximately \$6,000 each month in "rent and occupancy" for an organization with just three employees.

Furthermore, as discussed below, approximately \$75,000 of the administrative expenses is paid to a third-party provider who administers the dental plan. In 2009, the provider disbursed approximately 15,900 dental payments. Meanwhile, approximately \$350,000 is spent per year for three employees and office space to administer less than 5,000 annual payments for prescription drug, optical, and other lesser-utilized benefits. The Welfare Fund should consider outsourcing the in-house benefits administration to reduce its high administrative expenses.

Dental

Members and their eligible dependants are covered for dental plan benefits, which are administered by a third-party provider, Daniel H. Cook Associates, Inc., which is paid approximately \$75,000 per year. That figure is included in the \$536,919 administrative expenses for calendar year 2010. The Welfare Fund maintains a schedule of maximums for how much dentists can be paid and how much covered employees and dependents can be reimbursed per procedure. There is no yearly maximum amount for dental payments related to the same subscriber and/or family in a calendar year.

Welfare Fund records show that payments totaled \$2,891,844 in 2008, \$3,375,572 in 2009, and \$2,978,381 in 2010. We reviewed the 2009 weekly check registers, which consisted of approximately 15,900 separate payments, of which approximately 300 were voided. Approximately 85% of these checks were sent directly to participating providers. We selected a small sample and found numerous instances where there appeared to be a duplicate reimbursements of dental service, with each reimbursement being for the same service date, same original charge, and same reimbursement amount. We brought these payments to the attention of the Welfare Fund and its attorney responded in writing and provided a 2009 voided check register which accounted for almost all of the initial checks in question. We are awaiting further documentation regarding this issue.

Prescription Drugs

The prescription drug plan reimburses members and their eligible dependents for certain prescription drug costs, with a maximum yearly benefit of \$1,500 per year per family. The Welfare Fund administers this program in-house and its records revealed that payments totaled \$935,824 in 2008, \$930,443 in 2009, and \$916,353 in 2010.

We reviewed the 2009 annual check register, which consisted of approximately 2,250 separate payments. The records reflected that the 2009 reimbursements were made consistent with Welfare Fund guidelines.

Optical

Under the optical benefit plan, members and their eligible dependents receive eye examinations, lenses, contacts, and frames. The reimbursement plan pays a benefit allowance of up to \$140 every calendar year for each covered member and up to \$95 for each of his or her eligible dependents. If both a husband and wife are covered members, the Welfare Fund will pay a maximum of \$235 for each covered member and a maximum of \$190 for each eligible dependent during the calendar year.

The Welfare Fund administers the payments under this plan in-house. According to Welfare Fund records, optical benefits payments totaled \$238,223 in 2008, \$259,858 in 2009, and \$255,477 in 2010. We reviewed the 2009 annual check register, which consisted of approximately 2,300 separate payments. The payment records showed that the 2009 reimbursements were made consistent with Welfare Fund guidelines.

Legal services

Members also qualify for help to pay for covered legal services, such as wills, uncontested divorces, power of attorneys, and civil litigation. Legal services are provided by the firm of Mirkin & Gordon, P.C., and payments totaled \$162,129 in 2008, \$199,313 in 2009, and \$119,860 in 2010. We requested and received a breakdown of the types of cases for members who utilized the legal services benefit in 2009 but did not seek any specific details about such matters.

Conclusions and Recommendations

Our analysis of the Welfare Fund leads us to conclude that the prescription drug and optical benefits appear to be administered within Welfare Fund guidelines, and that a third-party provider effectively processes almost 16,000 annual dental payments to dentists and covered employees. Meanwhile, despite the severe fiscal problems of the School District that have resulted in programs being cut and teachers losing their jobs, the Welfare Fund maintains over \$3 million in investments and has a monthly “rent and occupancy” cost of approximately \$6,000, despite only employing three people. These funds and/or future contractual payments from the BOE to the Welfare Fund could be redirected to restore teachers and programs in the School District.

We make the following specific recommendations:

- The Welfare Fund should consider voluntarily contributing a portion of its over \$3 million in investments and/or additional future payments it is scheduled to receive from the BOE in order to restore teachers and programs in the School District.
- The Welfare Fund and its third party provider should further review payments for dental reimbursements to detect and correct possible duplicate payments.
- The Welfare Fund should explore outsourcing its in-house benefits administration in order to reduce its high administrative expenses.
- The Welfare Fund should seek to renegotiate or terminate its expensive lease at 35 East Grassy Sprain Road, and should not renew under its current terms after it expires on April 30, 2015.
- The Welfare Fund should cooperative with requests for information from the IG, without the need for a subpoena, litigation, and court orders, so that Yonkers taxpayers can learn how their money is being spent.